

California Department of Mental Health (DMH)
FREQUENTLY ASKED QUESTIONS
Mental Health Services Act (MHSA) County Non-Supplant Policy
DMH Letter No. 05-04

Updated November 2, 2005

- 1. *Can the county use MHSA funds for mental health services provided by a non-profit organization previously funded with non-public funds (i.e., donations, etc.)?***

Yes, MHSA funds can be used for mental health services previously provided by a non-profit organization if the organization was not previously under contract to provide the level of service to a county and the services meet the Department's non-supplant policy outlined in DMH Letter 05-04.

- 2. *When will the DMH provide the county-specific information on fiscal year 2004-05 allocations that will be used to monitor county compliance with the non-supplant policy?***

The Department intends to provide each county with a letter no later than September 30, 2005 identifying their county-specific information on fiscal year 2004-05 allocation amounts required to be used for mental health services. Counties will be given the opportunity to discuss with the Department any discrepancies between the amounts provided by the Department and the county records.

- 3. *A county may have used more realignment funds than allocated in fiscal year 2004-05 by using realignment mental health trust fund amounts to fund services. Is a county required to continue to use such amounts in subsequent years in order to comply with the non-supplant policy?***

No, a county is not required to continue to use realignment mental health trust fund amounts in order to comply with the non-supplant policy. However, in keeping with the requirements of the Department's non-supplant policy, MHSA funds must be used to expand mental health services. This means that MHSA funds cannot be used for services funded with realignment mental health trust funds at the time of enactment of the MHSA. Thus, a county is not required to use realignment trust funds to continue to fund services but is not allowed to use MHSA funds to provide services previously funded with realignment trust funds.

- 4. *SAMHSA and PATH grants as well as realignment allocations can be rolled over each year and are not required to be used in the year in which they are allocated as long as they are maintained in the realignment mental health trust fund. Does the DMH intend to require counties to spend the entire amount of the annual allocations or will counties be allowed to roll over funds to subsequent fiscal year(s)?***

The Department does not intend to require counties to spend the entire amount of annual allocations and counties will continue to be allowed to roll over funds to

subsequent fiscal years. The Department intends to monitor compliance with the requirement that counties must use fiscal year 2004-05 funds for mental health services through the annual Short-Doyle/Medi-Cal cost report. The specific forms have not been developed yet, but in general, each county will need to account for the entire required fiscal year 2004-05 mental health service allocations. Each county will have an opportunity to justify and explain on the cost report why any funds were not used on mental health services if such funds were either rolled over to the next year or maintained in the realignment mental health trust fund. Rolling over funds or maintaining additional funds in the realignment mental health trust fund should be consistent with the county's past practices. The Department will verify through the audit process that such funds were not previously used for mental health services and that MHSA funds are not being used to supplant such funds.

5. *Will counties be held to fiscal year 2004-05 realignment amounts if realignment allocations decline in a subsequent year due to a decrease in sales tax revenues or vehicle license fees?*

If for some reason mental health realignment allocations decline, the Department will revisit the amount of realignment funds required to be used for mental health services.

6. *The total amount of realignment allocations for any fiscal year is not typically known until the next year due to growth. Will the Department, when measuring whether a county spent all their mental health realignment funds on mental health services, hold counties accountable for spending this growth in fiscal year 2005-06?*

Because growth in realignment is not known until the next fiscal year, the Department, when measuring whether a county complied with the non-supplant policy, will not measure whether counties spent their realignment growth in fiscal year 2005-06. The Department will measure whether a county used their 2004-05 realignment base allocations as of June 30, 2005 for mental health services. At this time, the Department does not intend to include future realignment growth when evaluating whether a county complied with the non-supplant policy.

7. *Welfare and Institutions Code Section 5891 specifies that "The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this act," which is fiscal year 2003-04. Yet DMH Letter 05-04 requires counties to maintain the level of funding used by the county to fund mental health services in fiscal year 2004-05 (the time of enactment of the MHSA). Why are there two different time periods?*

The sentence identified above from W&I Code Section 5891 is only applicable to the State level of funding and not the county level of funding. Thus, the State must continue to provide the same level of aggregate funding as in fiscal year 2003-04 as the State maintenance of effort. The section of W&I Code Section 5891 related to

counties specifies that counties cannot supplant (i.e., replace) existing state or county funds utilized to provide mental health services. "Existing" is as of the time of enactment of the proposition. In this case, the MHSA was passed on November 2, 2004, which is used to identify the timing of "existing" and counties cannot replace funds used on November 2, 2004 to provide mental health services. Thus, there are two different time periods: one for the State maintenance of effort (fiscal year 2003-04) and one for the county non-supplant (fiscal year 2004-05).

- 8. *If a county used short-term funding for a project to supplement it until the MHSA funds were available, can the county use MHSA funds to continue the program? The county saw the funding as a bridge that allowed them to start this program early.***

A county may use MHSA funds to continue a program that was funded with short-term funding provided the county can sufficiently demonstrate that the funding was intended to be short-term and that the services are specified in the MHSA. The MHSA specifies that a county cannot supplant (i.e., replace) existing state and county funds with MHSA funds and that MHSA funds are to be used to expand mental health services. This means a county cannot replace the SAMHSA or county funds if these funds were used to provide services prior to the passage of the MHSA. As long as the program was started after passage of the MHSA, the program is eligible for MHSA funding. However, the MHSA also is specific as to the types of services that are to be funded with MHSA funds, such as Children's System of Care services. Counties that can demonstrate that the short-term funding was solely intended to bridge the time until MHSA funds were available and that the services funded are clearly delineated in the MHSA may request in writing to the Department that the use of MHSA funds for such services is not in conflict with the non-supplant requirements of the MHSA. The Department will review such requests on a case-by-case basis and make a determination in consultation with legal counsel as to whether such activities are in compliance with the intent of the MHSA.

- 9. *DMH Letter 05-04 states that county expenditures will be evaluated against the fiscal year 2004-05 aggregate spending amount. What is meant by "aggregate" spending amount?***

The Department intends to consider whether a county utilized all of their required resources in aggregate rather than looking at specific categorical funding. Thus, a county won't be held to the specific amount of realignment funding but will be held to the aggregate amount of all required resources. Also note that the Department will provide counties flexibility in documenting expenditures and in the timing of expenditures (see question 4, Page 1).

- 10. *Our county Sheriff provided county General Fund dollars in fiscal year 2004-05 to support mental health services to clients being discharged from jail. He stated that he expected MHSA to pay for this in the future. I am assuming since this Sheriff's funding is General Fund overmatch, that the Sheriff could pull this funding, and if it was approved in the CSS plan it could be put back under MHSA funding. Is my assumption correct?***

These services would not be eligible for MHSA funding. It is accurate that DMH Letter No. 05-04 (MHSA Non-Supplant Policy) states that counties are not required to provide county overmatch for mental health services even if this funding was previously provided by the county. However, DMH Letter No. 05-04 identifies three criteria that must all be met in order to comply with the non-supplant policy. Two of those criteria are that MHSA funds cannot be used to replace state and county funds used to provide services at the time the MHSA was enacted and services provided with MHSA funds must represent an expansion of services above those services provided at the time of enactment of the MHSA. It sounds like the services you describe were provided at the time of enactment of the MHSA and so would not meet the requirement of an expansion of mental health services. Further, it sounds like these services were funded with existing county funds at the time of enactment of the MHSA and the funding was not intended to be short-term funding until MHSA funds were available. Therefore, the situation you describe does not meet two of the non-supplant criteria, and MHSA funds cannot be used to fund the program previously supported by county overmatch.

11. DMH Letter 05-04 indicates that MHSA funds cannot be used for inflationary increases in costs associated with programs in existence at the time of enactment of the MHSA. Are inflationary increases in costs associated with expanded MHSA programs allowable in future years?

Yes, inflationary increases in costs of programs in a county's approved Community Services and Supports Plan are eligible for MHSA funding. The purpose of the MHSA is to expand services, so inflationary increases in costs of existing programs do not represent an expansion of services and are not eligible for MHSA funds.

12. Does a county have to show cost-effectiveness in order to reallocate 10 percent of realignment funding from the mental health trust fund to either the social services or health trust fund?

Welfare and Institutions Code Section 17600.20(c)(1) requires a county, at a regularly scheduled hearing, to document that any 10 percent reallocations were based on the most cost-effective use of available resources to maximize client outcomes. There is no change to that requirement under the MHSA.

13. Is there a percentage limitation on county overhead?

For Community Services and Supports, county administration is suggested as a guideline to be 15 percent of the overall countywide CSS program costs, which is consistent with other Department programs such as Medi-Cal.

14. I understand that the County Medical Services Program (CMSP) has proposed cutbacks in the mental health benefit and expects such services to be funded in the future with MHSA funds. Is this allowable?

Services previously provided and funded through the CMSP would clearly be in conflict with the non-supplant policy of the MHSA. These services were both funded

and provided at the time of enactment of the MHSA and do not represent an expansion of services, so do not meet the non-supplant policy.

15. After the MHSA was passed by voters in November 2004, our county developed a new program funded entirely with county funds. Can we now fund this program through the MHSA or would that be supplanting?

With regard to the supplanting issue, new services that begin after enactment of the MHSA on November 2, 2004 are eligible for MHSA funds if they meet the criteria of the Department's non-supplant policy as described in DMH Letter No. 05-04. Note however, that other eligibility requirements for MHSA funds must also be met, such as approval of the county's Community Services and Supports (CSS) program and expenditure plan.

16. For Community Program Planning, DMH Letter 05-01 required existing staff that have been redirected to MHSA planning, must have at least 50% of their time dedicated to the MHSA planning effort to be eligible for funding. Is this requirement still in effect in fiscal year 2005/2006?

The 50% dedicated staff requirement is no longer required effective July 1, 2005 for MHSA expenses.